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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4778 OF 2017

Shri. Sanjay Shankar Sanap	..Petitioner
Versus	
The State of Maharashtra, School & Education Department, Mantralaya, Mumbai, through the Principal Secretary and others	..Respondents

**ALONGWITH
WRIT PETITION NO.5990 OF 2017**

Shri. Satish Somnath Gomase	..Petitioner
Versus	
The State of Maharashtra, School & Education Department, Mantralaya, Mumbai, through the Principal Secretary and others	..Respondents

Mr. Saurabh S. Pakale i/by Mr. S. M. Katkar, Advocate for the
Petitioner in both the Writ Petitions.

Mr. S. B. Kalel, AGP for Respondent No.1 in both the Writ Petitions.

Mrs. Manisha Jagtap a/w Sairuchita Choudhary i/by J. Shekhar & Co.,
for Respondent No.2 and 3 in both the Writ Petitions.

Mr. D. R. More a/w Mr. Nitesh J. Mohite, Advocate for Respondent
No.4 in Writ Petition N.5990 of 2017.

**CORAM: B. R. GAVAI &
B. P. COLABAWALLA, JJ.**

DATE: 14th DECEMBER, 2017

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard by consent of parties.

2] Petitioners in both these Petitions have approached this Court, being aggrieved by the inaction on the part of Nashik Municipal Corporation in allowing them to join the Nashik Municipal Corporation.

3] Petitioner in Writ Petition No.4778 of 2017 was appointed as Shikshan Sevak in Raigad Zilla Parishad and was posted in School managed by Roha Nagarpalika Education Board. State Government issued a Government Resolution dated 29/09/2011, providing for inter-district transfers of various categories, including Husband-Wife Ekatrikaran. Petitioner applied for his transfer from Roha Nagarpalika to Nashik Municipal Corporation. Nashik Municipal Corporation gave its consent on 13/6/2016. Accordingly, the Petitioner was relieved on 15/6/2016. It is pertinent to note that prior to the Petitioner being relieved, no objection was granted by the Nashik Municipal Corporation.

4] In Writ Petition No.5990 of 2017, Petitioner was initially appointed as Shikshan Sevak on 18/6/2010 in a School managed by Pimpri-Chinchwad Municipal Corporation. Petitioner also, on the basis of aforesaid Government Resolution, sought transfer to Nashik

Municipal Corporation. Pimpri-Chinchwad Municipal Corporation as well as Nashik Municipal Corporation, gave their no objection. Petitioner came to be relieved on 2/7/2016 from Pimpri-Chichwad Municipal Corporation.

5] As a matter of fact Petitioner in Writ Petition No.4778 of 2017 was permitted to temporarily join the Nashik Municipal Corporation but after three months, he was discontinued.

6] Being aggrieved by the inaction on the part of Nashik Municipal Corporation for allowing the Petitioners to join its services, the Petitioners have approached this Court.

7] In response to the notice issued by this Court, Respondent – Nashik Municipal Corporation has filed an affidavit. Mrs. Jagtap, learned Counsel for the Nashik Municipal Corporation submits that the matter has been referred to the General Body of the Corporation and after the General Body grants approval, Petitioners would be permitted to join the services of the Nashik Municipal Corporation.

8] We find that action on the part of the Respondent – Nashik Municipal Corporation in not allowing the Petitioners to join its services, is totally unjustified, having given its no objection for transferring the Petitioners from their respective Municipal Corporation/Municipal Council and after they were relieved from the services of their respective Municipal Corporation/Municipal Council

so as to enable them to join the services of Nashik Municipal Corporation. The Nashik Municipal Corporation therefore cannot now refuse the Petitioners from joining its services. We are also of the considered view that action on the part of Nashik Municipal Corporation, of not allowing the Petitioners to join its services will be hit by the doctrine of promissory estoppel. Having given no objection to the Petitioners to join its services and having permitted the Petitioners to get relieved from the services of their respective Municipal Corporation/Municipal Council, the Respondent – Nashik Municipal Corporation is estopped from acting contrary to the no objection given by it. Apart from that, we are of the view that such matters, which are purely of administrative nature, need not go before the General Body. Reference in this respect could also be made to the communication dated 5/2/2009 made by the State of Maharashtra to the Nashik Municipal Corporation.

9] In the result, Petition is allowed. Respondent – Nashik Municipal Corporation is directed to allow the Petitioners to forthwith join the services in the School managed by the Nashik Municipal Corporation. It is further directed that so far as the Petitioner in Writ Petition No.4778 of 2017 is concerned, he shall be deemed to have joined the Nashik Municipal Corporation from the next working day, falling after 15/6/2016. Insofar as the Petitioner in Writ Petition No. 5990 of 2017 is concerned, he shall be deemed to have joined the Nashik Municipal Corporation from the next working day, falling after 2/7/2016.

10] The arrears on the basis of aforesaid order shall be paid to the Petitioners within a period of three months from today.

11] Rule is made absolute accordingly.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)